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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
NORIYUKI SAKOH, ET AL. : EXAMINER: SHIU, H.
SERIAL NO: 10/564,414 :
FILED: JANUARY 12, 2006 : GROUP ART UNIT: 2457
FOR: CONTENT ACQUISITION :
METHOD

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Notification of Non-Compliant Appeal Brief dated May 4, 2010, Applicants appeal the outstanding Final Rejection of January 7, 2010, which finally rejected Claims 1-20 in the above-identified patent application. A Notice of Appeal was timely filed on March 4, 2010.

I. REAL PARTY-IN-INTEREST

The real part-in-interest is Sony Corporation.

II. RELATED APPEALS AND INTERFERENCES

Appellants, Appellants' legal representative, and the assignees are aware of no appeals which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

Claims 1-20 have been finally rejected. The rejections of Claims 1-20 form the basis for this appeal. Appendix VIII includes a clean copy of appealed Claims 1-20.

IV. STATUS OF AMENDMENTS

No amendments after final rejection have been filed.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent Claim 1 is directed to a content acquisition method including: sending file request information that requests an acquire/use file storing acquire/use content identification information and content attribute information, to an acquire/use information providing device in response to a request for content data (Step SP3, Figure 13 and page 28, lines 6-8 of the specification); receiving via a proxy device the acquire/use file that stores the content identification information and the attribute information of the content data sent by the acquire/use information providing device in response to the content data request (Step SP4, Figure 13 and page 28, line 21 to page 29, line 4 of the specification), the content identification information and content attribute information are stored in a data area such that no information is removed from the content identification information and content attribute information when the acquire/use file passes through the proxy device (page 17, lines 13-24 of the specification), the receiving via a proxy device including receiving the acquire/use file sent in compliance with HTTP (Hyper Text Transfer Protocol) from the acquire/use information providing device, the proxy device complying with an HTTP standard except that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device (page 58, lines 3-17 of the specification); sending content request information requesting the content data from a content providing device according to the

acquire/use information contained in the acquire/use file (Step SP7, Figure 13 and page 30, lines 10-16 of the specification); and receiving the content data sent by the content providing device in response to the transmission of the content request information (Step SP8, Figure 13 and page 30, lines 20-23 of the specification).

Independent Claim 6 is directed to an acquire/use information providing method including: receiving file request information requesting an acquire/use file that stores acquire/use content identification information and content attribute information of content data, sent by a content acquisition device in response to a request for the content data by a content data acquisition device (step after Step SP22, Figure 13 and page 28, lines 6-20 of the specification); and sending via a proxy device to the content acquisition device, the acquire/use file that stores content data content identification information and the attribute information of the content (Step SP31, Figure 13 and page 28, lines 14-20 of the specification), the content identification information and content attribute information are stored in a data area such that no information is removed from the content identification information and content attribute information when the acquire/use file passes through the proxy device, in response to the received file request information (page 17, lines 13-24 of the specification), the sending including sending the acquire/use file in compliance with HTTP (Hyper Text Transfer Protocol), the proxy device complying with an HTTP standard except that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device (page 58, lines 3-17 of the specification).

Independent Claim 9 is directed to a content acquisition device including a file request information setting unit, an information receiving unit, a content request information sending unit, and a content receiving unit. The file request information sending unit is configured to send file request information that requests an acquire/use file storing acquire/use content identification information and content attribute information, to an

acquire/use information providing device in response to a request for content data (page 28, lines 6-8 of the specification). The information receiving unit is configured to receive via a proxy device the acquire/use file that stores the content identification information and the attribute information of the content data sent by the acquire/use information providing device in response to the content data request (page 28, line 21 to page 29, line 4 of the specification). The content identification information and content attribute information are stored in a data area such that no information is removed from the content identification information and content attribute information when the acquire/use file passes through the proxy device (page 17, lines 13-24 of the specification). The information receiving unit configured to receive the acquire/use file sent in compliance with HTTP (Hyper Text Transfer Protocol) from the acquire/use information providing device and the proxy device complying with an HTTP standard except that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device (page 58, lines 3-17 of the specification). The content request information sending unit is configured to send content request information requesting the content data from a content providing device according to the acquire/use information contained in the acquire/use file (page 30, lines 10-16 of the specification). The content receiving unit is configured to receive the content data sent by the content providing device in response to the transmission of the content request information (page 30, lines 20-23 of the specification).

Independent Claim 14 is directed to an acquire/use information providing device including a request information receiving unit and an information sending unit. The request information receiving unit is configured to request an acquire/use file that stores acquire/use content identification information and content attribute information of content data, sent by a content acquisition device in response to a request for the content data by a content data acquisition device (page 28, lines 6-20 of the specification). The information is sending unit

configured to send via a proxy device to the content acquisition device, the acquire/use file that stores content data content identification information and the attribute information of the content (page 28, lines 14-20 of the specification). The content identification information and content attribute information are stored in a data area such that no information is removed from the content identification information and content attribute information when the acquire/use file passes through the proxy device (page 17, lines 13-24 of the specification). The information sending unit configured to send the acquire/use file in compliance with HTTP (Hyper Text Transfer Protocol), the proxy device complying with an HTTP standard except that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device (page 58, lines 3-17 of the specification).

Independent Claim 17 is directed to a computer readable recording medium storing a program, which when executed by a processor, causes the processor to execute a procedure including: sending file request information that requests an acquire/use file storing acquire/use content identification information and content attribute information, to an acquire/use information providing device in response to a request for content data (Step SP3, Figure 13 and page 28, lines 6-8 of the specification); receiving via a proxy device the acquire/use file that stores the content identification information and the attribute information of the content data sent by the acquire/use information providing device in response to the content data request (Step SP4, Figure 13 and page 28, line 21 to page 29, line 4 of the specification), the content identification information and content attribute information are stored in a data area such that no information is removed from the content identification information and content attribute information when the acquire/use file passes through the proxy device (page 17, lines 13-24 of the specification), the receiving via a proxy device including receiving the acquire/use file sent in compliance with HTTP (Hyper Text Transfer

Protocol) from the acquire/use information providing device, the proxy device complying with an HTTP standard except that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device (page 58, lines 3-17 of the specification); sending content request information requesting the content data from a content providing device according to the acquire/use information contained in the acquire/use file (Step SP7, Figure 13 and page 30, lines 10-16 of the specification); and receiving the content data sent by the content providing device in response to the transmission of the content request information (Step SP8, Figure 13 and page 30, lines 20-23 of the specification).

Independent Claim 18 is directed to a computer readable recording medium storing a program which when executed by a processor causes the processor to execute a procedure including: receiving file request information requesting an acquire/use file that stores acquire/use content identification information and content attribute information of content data, sent by a content acquisition device in response to a request for the content data by a content data acquisition device (step after Step SP22, Figure 13 and page 28, lines 6-20 of the specification); and sending via a proxy device to the content acquisition device, the acquire/use file that stores content data content identification information and the attribute information of the content (Step SP31, Figure 13 and page 28, lines 14-20 of the specification), the content identification information and content attribute information are stored in a data area such that no information is removed from the content identification information and content attribute information when the acquire/use file passes through the proxy device, in response to the received file request information (page 17, lines 13-24 of the specification), the sending including sending the acquire/use file in compliance with HTTP (Hyper Text Transfer Protocol), the proxy device complying with an HTTP standard except that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device (page 58, lines 3-17 of the specification).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to be reviewed on appeal are:

- (a) whether Claims 1-20 fail to comply with the enablement requirement under 35 U.S.C. §112, first paragraph;
- (b) whether Claims 1-3, 5-11, and 13-18 are unpatentable under 35 U.S.C. §103(a) over Sato (U.S. Patent No. 7,299,271) in view of Kyojima et al. (U.S. Patent No. 6,275,936, herein “Kyojima”) and further in view of Takaragi et al. (U.S. Patent No. 6,592,032, herein “Takaragi”);
- (c) whether Claims 4 and 12 are unpatentable under 35 U.S.C. §103(a) over Sato in view of Kyojima and Takaragi and further in view of Dansie et al. (U.S. Patent No. 7,308,487, herein “Dansie”); and
- (d) whether Claims 19 and 20 are unpatentable under 35 U.S.C. §103(a) over Sato in view of Kyojima and Takaragi and further in view of Official Notice.

VII. ARGUMENTS

A. Claims 1-20 are enabled under 35 U.S.C. §112, first paragraph

The outstanding Office Action asserts that all the pending claims are not enabled because they are contradictory due to the phrase in the independent claims “said proxy device complying with an HTTP standard except that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device.”

Page 3 of the outstanding Office Action states “In view, applicant’s statements state that HTTP compliant communication device must always remove some information thereby making the proxy device disclosed in Sato unsuitable for reading on the claims of ‘never removes the file size from the acquire/use file when passing the acquire/use file through the proxy device. According to the definition of HTTP standards, in order to be compliant with

HTTP standard, the acquire/use file has to be removed/altered.” It is respectfully submitted that this is an inaccurate statement of applicant’s position and of the definition in the HTTP standard.

As noted below, §4.4 of the HTTP standard requires that an HTTP compliant device proxy device remove a file size from an acquire/use file *only under certain circumstances*. Thus the statements in the outstanding Office Action that “HTTP compliant indication device must always remove some information” and “in order to be compliant with HTTP standard, the acquire/use file has to be removed/altered” are clearly incorrect. Again, an HTTP compliant device only removes the file size from an acquire/use file under the specific circumstances described in §4.4 of the HTTP standard.

The pending independent claims recite that “said proxy device complying with an HTTP standard except that a file size is **never** removed from the acquire/use file when passing the acquire/use file through the proxy device.” Accordingly, the pending claims clearly recite proxy devices that are compliant with the HTTP standard *except* for the condition recited in the claims. Thus, the claims clearly recite proxy devices that are **not** compliant with the HTTP standard, as “a file size is **never** removed from the acquire/use file when passing the acquire/use file through the proxy device.” This definition is consistent with and enabled by the specification, and consistent with the arguments below. Consequently, it is respectfully submitted that Claims 1-20 are in compliance with all requirements under 35 U.S.C. §112, first paragraph.

B. Claims 1-3, 5-11, and 13-18 are patentable over Sato in view of Kyojima and further in view of Takaragi

Claims 1, 6, 9, 14, 17, and 18 recite in part “said proxy device complying with an HTTP standard *except* that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device.”

§4.4 of the HTTP standard describes that “If a Content-Length header field (section 14.13) is present, its decimal value in OCTETs represents both the entity-length and the transfer-length. The Content-Length header field MUST NOT be sent if these two lengths are different (i.e., if a Transfer-Encoding header field is present). If a message is received with both a Transfer-Encoding header field and a Content-Length header field, the latter MUST be ignored.” (Emphasis original.) Thus, under the HTTP standard, a proxy device *always* removes some information from a message *meeting the above description*. In other words, a proxy device must remove the Content-Length header field under the circumstances described above. In contrast, the claimed invention *never* removes the file size from the acquire/use file when passing the acquire/use file through the proxy device.

In contrast, Sato describes the use of the HTTP standard, and thus the device is described in Sato must also have this property as described in the standard. Accordingly, not only does Sato not teach or suggest “said proxy device complying with an HTTP standard *except* that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device,” modifying Sato to include this feature would make Sato unsuitable for its intended purpose, which is providing HTTP compliant communication.

Further, Kyojima only describes the storage of data that a user cannot change, and does not describe anything related to communications according to the HTTP standard. Accordingly, Kyojima also does not teach or suggest “said proxy device complying with an

HTTP standard except that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device.”

Finally, Takaragi describes a method of controlling information written into a storage media. Takaragi does not describe storing any data from an acquire/use file sent in compliance with HTTP (Hyper Text Transfer Protocol), and in fact does not mention HTTP. Accordingly, modifying Sato to violate the HTTP standard based on Takaragi would make Sato unsuitable for its intended purpose, which is providing HTTP compliant communication. Accordingly, not only does Takaragi fail to teach or suggest “said proxy device complying with an HTTP standard except that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device,” there can be no suggestion or motivation to modify Sato to include this feature.

Thus, it is respectfully submitted that the proposed combination does not teach or suggest “said proxy device complying with an HTTP standard except that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device” as defined in recited in Claims 1, 6, 9, 14, 17, and 18, and there can be no suggestion or motivation to modify Sato to include such a feature. Consequently, Claims 1, 6, 9, 14, 17, and 18 (and Claims 2-5, 7, 8, 10-13, 15, 16, 19, and 20 dependent therefrom) are patentable over Sato in view of Kyojima and further in view of Takaragi.

C. Claims 4 and 12 are patentable over Sato in view of Kyojima and Takaragi and further in view of Dansie

With regard to the rejection of Claims 4 and 12 as unpatentable over Sato in view of Kyojima and Takaragi and further in view of Dansie, it is noted that Claims 4 and 12 are dependent from Claims 1 and 9, and thus are believed to be patentable for at least the reasons discussed above. Further, it is respectfully submitted that Dansie does not cure any of the

above-noted deficiencies of Sato, Kyojima, and Takaragi. Accordingly, it is respectfully submitted that Claims 4 and 12 are patentable over Sato in view of Kyojima and Takaragi and further in view of Dansie.

D. Claims 19 and 20 are patentable over Sato in view of Kyojima and Takaragi and further in view of Official Notice

With regard to the rejection of Claims 19 and 20 as unpatentable over Sato in view of Kyojima and Takaragi and further in view of Official Notice, it is noted that Claims 19 and 20 are dependent from Claim 1, and thus are believed to be patentable for at least the reasons discussed above. Further, it is respectfully submitted that the Official Notice does not cure any of the above-noted deficiencies of Sato, Kyojima, and Takaragi. Accordingly, it is respectfully submitted that Claims 19 and 20 are patentable over Sato in view of Kyojima and Takaragi and further in view of Official Notice.

Conclusion

It is respectfully requested that the outstanding rejections be REVERSED.

Respectfully submitted,

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VIII. CLAIMS APPENDIX

Claim 1: A content acquisition method comprising:

 sending file request information that requests an acquire/use file storing acquire/use content identification information and content attribute information, to an acquire/use information providing device in response to a request for content data;

 receiving via a proxy device said acquire/use file that stores the content identification information and said attribute information of said content data sent by said acquire/use information providing device in response to the content data request, said content identification information and content attribute information are stored in a data area such that no information is removed from said content identification information and content attribute information when the acquire/use file passes through said proxy device, said receiving via a proxy device including receiving said acquire/use file sent in compliance with HTTP (Hyper Text Transfer Protocol) from said acquire/use information providing device, said proxy device complying with an HTTP standard except that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device;

 sending content request information requesting said content data from a content providing device according to said acquire/use information contained in said acquire/use file; and

 receiving said content data sent by said content providing device in response to the transmission of said content request information.

Claim 2: The content acquisition method according to claim 1, wherein the attribute information corresponding to said content data includes data size information of said content data.

Claim 3: The content acquisition method according to claim 2, further comprising:

comparing said data size information of said content data contained in said acquire/use file with a free space of a recording media to be used to record said content data upon reception; and

notifying a lack of said free space in said recording media for storing the content data if said free space in said recording media is insufficient.

Claim 4: The content acquisition method according to claim 2, further comprising:

comparing the data size of received content data with said data size information of said content data contained in said acquire/use file, and determining whether the content data has been successfully received.

Claim 5: The content acquisition method according to claim 2, wherein:
said acquire/use file stores said content identification information and said attribute information of said content data in its main section.

Claim 6: An acquire/use information providing method comprising:
receiving file request information requesting an acquire/use file that stores acquire/use content identification information and content attribute information of content data, sent by a content acquisition device in response to a request for the content data by a content data acquisition device; and
sending via a proxy device to said content acquisition device, said acquire/use file that stores content data content identification information and the attribute

information of the content, said content identification information and content attribute information are stored in a data area such that no information is removed from said content identification information and content attribute information when the acquire/use file passes through said proxy device, in response to the received file request information, said sending including sending said acquire/use file in compliance with HTTP (Hyper Text Transfer Protocol), said proxy device complying with an HTTP standard except that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device.

Claim 7: The acquire/use information providing method according to claim 6, wherein said attribute information corresponding to said content data includes data size information of said content data.

Claim 8: The acquire/use information providing method according to claim 7, wherein said acquire/use file stores said content identification information and said data size information of said content data in its main section.

Claim 9: A content acquisition device comprising:
a file request information sending unit configured to send file request information that requests an acquire/use file storing acquire/use content identification information and content attribute information, to an acquire/use information providing device in response to a request for content data;
an information receiving unit configured to receive via a proxy device said acquire/use file that stores the content identification information and said attribute information of said content data sent by said acquire/use information providing device

in response to the content data request, said content identification information and content attribute information are stored in a data area such that no information is removed from said content identification information and content attribute information when the acquire/use file passes through said proxy device, said information receiving unit configured to receive said acquire/use file sent in compliance with HTTP (Hyper Text Transfer Protocol) from said acquire/use information providing device, said proxy device complying with an HTTP standard except that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device;

a content request information sending unit configured to send content request information requesting said content data from a content providing device according to said acquire/use information contained in said acquire/use file; and

a content receiving unit configured to receive said content data sent by said content providing device in response to the transmission of said content request information.

Claim 10: The content acquisition device according to claim 9, wherein the attribute information corresponding to said content data includes data size information of said content data.

Claim 11: The content acquisition device according to claim 10, further comprising:

a comparison unit configured to compare the data size information of said content data contained in said acquire/use file with a free space of a recording media to be used to record said content data upon reception; and

a notification unit configured to notify a lack of said free space in said recording media for storing the content data if said free space in said recording media is insufficient.

Claim 12: The content acquisition device according to claim 10, further comprising:

a determination unit configured to compare the data size of received content data with said data size information of said content data contained in said acquire/use file, and determine whether the content data has been successfully received.

Claim 13: The content acquisition device according to claim 10, wherein: said acquire/use file stores said content identification information and said attribute information of said content data in its main section.

Claim 14: An acquire/use information providing device comprising:
a request information receiving unit configured to request an acquire/use file that stores acquire/use content identification information and content attribute information of content data, sent by a content acquisition device in response to a request for the content data by a content data acquisition device; and
an information sending unit configured to send via a proxy device to said content acquisition device, said acquire/use file that stores content data content identification information and the attribute information of the content, said content identification information and content attribute information are stored in a data area such that no information is removed from said content identification information and content attribute information when the acquire/use file passes through said proxy

device, said information sending unit configured to send the acquire/use file in compliance with HTTP (Hyper Text Transfer Protocol), said proxy device complying with an HTTP standard except that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device.

Claim 15: The acquire/use information providing device according to claim 14, wherein the attribute information corresponding to said content includes data size information of said content data.

Claim 16: The acquire/use information providing device according to claim 14, wherein said acquire/use file stores said content identification information and said data size information of said content data in its main section.

Claim 17: A computer readable recording medium storing a program, which when executed by a processor, causes the processor to execute a procedure comprising:

 sending file request information that requests an acquire/use file storing acquire/use content identification information and content attribute information, to an acquire/use information providing device in response to a request for content data;

 receiving via a proxy device said acquire/use file that stores the content identification information and said attribute information of said content data sent by said acquire/use information providing device in response to the content data request, said content identification information and content attribute information are stored in a data area such that no information is removed from said content identification information and content attribute information when the acquire/use file passes through

said proxy device, said receiving via a proxy device including receiving said acquire/use file sent in compliance with HTTP (Hyper Text Transfer Protocol) from said acquire/use information providing device, said proxy device complying with an HTTP standard except that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device;

 sending content request information requesting said content data from a content providing device according to said acquire/use information contained in said acquire/use file; and

 receiving said content data sent by said content providing device in response to the transmission of said content request information.

Claim 18: A computer readable recording medium storing a program which when executed by a processor causes the processor to execute a procedure comprising:

 receiving file request information requesting an acquire/use file that stores acquire/use content identification information and content attribute information of content data, sent by a content acquisition device in response to a request for the content data by a content data acquisition device; and

 sending via a proxy device to said content acquisition device, said acquire/use file that stores content data content identification information and the attribute information of the content, said content identification information and content attribute information are stored in a data area such that no information is removed from said content identification information and content attribute information when the acquire/use file passes through said proxy device, in response to the received file request information, said sending including sending said acquire/use file in

compliance with HTTP (Hyper Text Transfer Protocol), said proxy device complying with an HTTP standard except that a file size is never removed from the acquire/use file when passing the acquire/use file through the proxy device.

Claim 19: The content acquisition method according to claim 1, wherein the content data is an audio file.

Claim 20: The content acquisition method according to claim 1, wherein the content data is a music file.

IX. EVIDENCE APPENDIX

HTTP Standard Version 1.1
(Previously filed with an Appeal Brief on April 23, 2010)

Application Serial No. 10/564,414
Response to Notification of Non-Compliant Appeal Brief

X. RELATED PROCEEDINGS APPENDIX

None.